1950.

File No. Provl. Munis. Corporation II/50 (R).

Legal Department:

B. **BRANCH**

Subject:— Rules under the Bombay Provincial Municipal Corporation Act 1949.

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File No. Provl. Munis. Corporation II/50 (R)

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Legal Department.

It is stated in the letter at page 1 that "as required by section 455(1) of the Corporations Act, a notification with draft rules was published in three local newspapers (1) "Prabhat" (2) "Kal" and (3) "Poona Daily News" on 20th October, 1950, and that the persons likely to be affected by the proposed change were asked to send in writing their objections or suggestions with regard to the draft published". The previous publication of rules is necessary also in the Official Gazette as required by section 455 of the Act, If the Corporation has not published the draft rules in the Official Gazette, it should be directed to follow the procedure de novo and approach Government for sanction.

2. Apart from what is stated above , the view taken by the Municipal Commissioner, Poona, at 'A' of his letter at page 1 ante that the publication of rules is required to be made by Government under sub-section (2) of section 455 of the Act is not correct. Section 454 of the Act empowers the Corporation to add to, amend, alter or annual the rules in the Schedule to the Act. The only requirement provided in sub-section (1) of section 455 is that such rules shall be subject to the sanction of the State Government and to the conditions of their being made after previous publication. It is further provided in sub-section (2) of section 455 that all rules shall be finally published in the Official Gazette, But this provision cannot be construed to mean that the State Government is to publish them. It is the Corporation (which is empowered to make rules) that has to publish the rules in the Official Gazette. The function of the State Government is to give sanction to the rules proposed by the Corporation. The Government may sanction them by a Government Resolution and inform the Corporation to

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state this fact in the preamble to the notification which the Corporation is to issue under section 454 read with section 455 and publish in the Gazette. Not only that, the Corporation has to decide under sub-section (3) of section 455 whether a further publication in any other manner is to be made.

3. As regards the contents of amendments, it is not necessary to reproduce the provision of the proviso to sub-rule (3) of rule 1 in Chapter I of the Schedule to the Act as it is not affected by the proposed amendments.

4. The reasons for amending sub-rule (8) of rule 1 and sub-rule (4) of rule 3 given by the Corporation are that in order to avoid unreasonable large commercial demand it is necessary to restrict the supply of copies. The object can be achieved by adding a proviso to the existing sub-rule (8) of rule 1 and sub-rule (4) of rule 3 as in the appended draft.

Id/-J.R.D. 6/1
Additional Secretary to Government.

U.R. to L.S.G. & P.H.D. No. 395 ,dated the 6th January ,1951.

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